

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6504

BILL NUMBER: HB 1081

NOTE PREPARED: Dec 17, 2007

BILL AMENDED:

SUBJECT: Resisting Law Enforcement.

FIRST AUTHOR: Rep. Hinkle

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes resisting law enforcement a Class D felony instead of a Class A misdemeanor.

It makes the offense a Class C felony if a person:

- (1) uses a vehicle after a law enforcement officer identifies himself or herself and orders the person to stop;
- (2) attempts to obtain possession of certain weapons from a law enforcement officer;
- (3) causes bodily injury to another person other than the law enforcement officer; or
- (4) operates a vehicle in a manner that creates a substantial risk of bodily injury to another person; while committing the offense.

It makes the offense a Class B felony if a person:

- (1) draws or uses a deadly weapon;
- (2) obtains possession of certain weapons from a law enforcement officer;
- (3) causes bodily injury to a law enforcement officer; or
- (4) operates a vehicle in a manner that causes serious bodily injury to another person; while committing the offense.

It makes the offense a Class A felony if a person operates a vehicle in a manner that causes the death of another person while committing the offense.

The bill makes conforming amendments.

Effective Date: July 1, 2008.

Explanation of State Expenditures: Currently, resisting law enforcement is a Class A misdemeanor that may be enhanced to a Class D, Class C, or Class B felony depending on certain circumstance. Under the bill, the underlying offense would be a Class D felony and all enhanced penalties would increase one crime class. Additional circumstances that invoke the enhanced penalty would be added. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail or if an offender is incarcerated in a state prison for a longer period of time. Also, the bill changes the definition of a serious violent felon to reflect the increases in enhanced penalties. The change is not expected to have fiscal impact.

The following table shows the changes to the crime of resisting arrest under the bill.

Existing Penalty	Proposed Penalty	Existing Circumstance	Proposed Additional Circumstance	Ave. Annual Commitments to a State Facility 2002-2006
Class A misdemeanor	Class D felony	<ul style="list-style-type: none">• resisting arrest	<ul style="list-style-type: none">• no change	N/A
Class D felony	Class C felony	<ul style="list-style-type: none">• uses a vehicle• draws or uses a deadly weapon• inflicts bodily injury• operates vehicle with substantial risk of bodily injury	<ul style="list-style-type: none">• attempts to obtain possession of a firearm from a law enforcement officer	266
Class C felony	Class B felony	<ul style="list-style-type: none">• operates a vehicle causing serious bodily injury	<ul style="list-style-type: none">• draws or uses a deadly weapon• obtains possession of a weapon from a law enforcement officer	4
Class B felony	Class A felony	<ul style="list-style-type: none">• causes death	<ul style="list-style-type: none">• no change	8

The following penalties apply to these offenses.

Crime Class Category	Sentence Range	Average Length of Stay in a DOC Facility
Class A Felony	20 to 50 years	9 years
Class B Felony	6 to 20 years	3.7 years
Class C Felony	2 to 8 years	2 years
Class D Felony	6 months to 3 years or Reduction to Class A misdemeanor	10 months
Class A Misdemeanor	Up to 1 year in local jail	N/A

The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for all felony offenses is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for both misdemeanors and felonies are \$120.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

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